

# ELLIS:LAWHORNE

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March 29, 2007

## **FILED ELECTRONICALLY AND VIA HAND-DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Application of Startec Global Communications Corporation and Startec  
Global Operating Company for Authority *Nunc Pro Tunc* for a *Pro Forma*  
Corporate Restructuring  
**Docket No. 2007-\_\_\_-C, ELS No. 1288-11418**

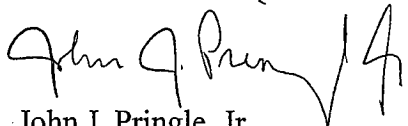
Dear Mr. Terreni:

Enclosed is the original and one (1) copy of the **Application** filed by Startec  
Global Communications Corporation and Startec Global Operating Company in the above-  
referenced matter.

Please acknowledge your receipt of this document by file-stamping the copy of  
this letter enclosed, and returning it via the person delivering same.

If you have any questions or need additional information, please do not hesitate to  
contact me.

Very truly yours,

  
John J. Pringle, Jr.

JJP/cr

cc: Office of Regulatory Staff Legal Department [via electronic mail service]  
Catherine Wang, Esq./Brett P. Ferencak, Esq. [via electronic mail service]  
Robert Felgar, Esquire [via electronic mail service]

Enclosures

**THIS DOCUMENT IS AN EXACT DUPLICATE OF THE E-FILED COPY SUBMITTED TO  
THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.**

**BEFORE THE  
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

**DOCKET NO. \_\_\_\_\_**

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In the Matter of the Joint Application of  
**STARTEC GLOBAL COMMUNICATIONS**  
**CORPORATION, and**  
**STARTEC GLOBAL OPERATING COMPANY**

For Authority *Nunc Pro Tunc* for a  
*Pro Forma* Corporate Restructuring

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**JOINT APPLICATION OF STARTEC GLOBAL COMMUNICATIONS  
CORPORATION AND STARTEC GLOBAL OPERATING COMPANY**

Startec Global Communications Corporation ("SGCC"), and Startec Global Operating Company ("Startec") (collectively, "Applicants"), pursuant to S.C. Code Section 58-9-310 and the rules of the South Carolina Public Service Commission ("Commission"), respectfully request Commission approval, *nunc pro tunc*, of a *pro forma* corporate restructuring completed on December 27, 2006 and involving Startec Global Licensing Company ("SGLC"), which the Commission authorized to provide telecommunications service. Applicants request that the Commission act expeditiously to grant the approval requested no later than the Commission's Agenda Meeting scheduled for on or about May 9, 2007, so that Applicants can timely meet important business objectives, including completing a proposed transaction which will result in the transfer of control of Applicants<sup>1</sup> and which is conditioned on Applicants obtaining approval of this Application.

In support of this Application, Applicants state as follows:

## **I. DESCRIPTION OF THE APPLICANTS**

Startec Global Operating Company is a Delaware corporation with its principal place of business located at 7361 Calhoun Place, Suite 650, Rockville, Maryland 20855. Startec is a wholly owned subsidiary of Startec Global Communications Corporation, a Delaware corporation whose principal business is telecommunications. Before the *pro forma* restructuring, Startec was affiliated with SGLC, which ceased to exist following the transaction.

Startec provides long distance, Internet, and other communications services in over 45 states and internationally. In South Carolina, Startec holds a Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services (the "Certificate").<sup>2</sup> Startec provides its services primarily to customers who place a significant number of calls to international destinations.

## **II. CONTACT INFORMATION**

Questions or any correspondence, orders, or other materials pertaining to this Application should be directed to the following.

### **For Applicants:**

John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
1501 Main Street  
5th Floor  
Columbia, SC 29201  
(803) 343-1270 (Tel)  
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<sup>1</sup> SGCC and EnergyTRACS Acquisition Corp. ("EnergyTRACS") entered into an Agreement and Plan of Merger dated March 5, 2007 that will result in EnergyTRACS becoming affiliated with Startec. A notification concerning the proposed transfer of control is being filed separately.

<sup>2</sup> The Certificate was originally granted to SGCC by Order No. 1999-109 issued by the Commission in Docket No. 98-606-C (July 28, 1999). The transfer of the Certificate to SGLC was approved by Order No. 1999-109 issued by the Commission in Docket No. 98-606-C on February 10, 1999. Through the *pro forma* restructuring, Startec became the holder of the Certificate.

And:

Catherine Wang  
Brett P. Ferenczak  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006  
(202) 373-6000 (Tel)  
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brett.ferenczak@bingham.com

With copies to:

Robert Felgar  
General Counsel and Secretary  
Startec Global Communications Corporation  
7361 Calhoun Place, Suite 650  
Rockville, MD 20855  
(301) 610-4646 (Tel)  
(240) 314-4219 (Fax)  
Robert.Felgar@startec.com

### **III. REQUEST FOR APPROVAL *NUNC PRO TUNC***

The Applicants request approval, *nunc pro tunc*, of a *pro forma* corporate restructuring completed on December 27, 2006 in which SGLC, an entity that was also 100% owned by SGCC and which originally held the Certificate granted by the Commission, was merged with and into Startec, with Startec surviving. As a result of the merger, SGLC ceased to exist and Startec became the operating telecommunications service provider in South Carolina. All the telecommunications assets of SGLC, including its Certificate, were transferred to Startec as a result of the merger. Upon completion of this *pro forma* corporate restructuring, Startec also assumed the customers and operations of SGLC. An illustrative chart describing this *pro forma* restructuring is attached hereto as Exhibit A. As explained below, because the transaction has already been consummated, Applicants respectfully request that this authority be granted on a *nunc pro tunc* basis.

On advice of its outside consultants, Startec planned to characterize this transaction as a change in carrier name. The Applicants now understand that Commission approval may be required for this type of *pro forma* restructuring and, therefore, Applicants have endeavored to file this Application as soon as possible after learning that Commission authorization may be required. The Applicants request that the Commission approve this Application on a *nunc pro tunc* basis.

This *pro forma* change has not resulted in confusion or inconvenience to its customers or any change in the services that they receive.

The *pro forma* change was undertaken to streamline and eliminate inefficiencies from the business and administrative operations of SGLC and Startec. The transaction, which resulted in a change in the entity authorized to provide telecommunications service in South Carolina, was strictly *pro forma* in nature and did not adversely affect the provision of telecommunications services in South Carolina. There was no change in the ultimate ownership or control nor in the management or day-to-day operations in South Carolina as a result of the transaction. SGLC had officers and directors that were identical to those of Startec. Service is provided using the same network, billing systems and customer service operations used by SGLC. All of SGLC's employees continue to be employees of Startec, and thus, Startec's highly qualified management team will continue to manage the provision of service to customers. In addition, customers are provided service pursuant to the same tariffs that were on file by SGLC, under the same rates, terms, and conditions. To the extent necessary, Startec will file a tariff to address the name change.

Thus, to the extent required, Applicants respectfully request that the Commission authorize the *pro forma* restructuring on a *nunc pro tunc* basis, including the merger of Startec and SGLC and the resulting transfer of the South Carolina telecommunications assets of SGLC to Startec.

#### **IV. PUBLIC INTEREST CONSIDERATIONS**

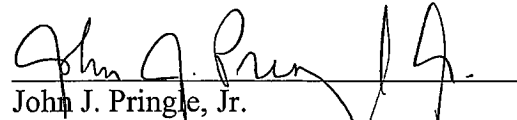
Applicants submit that the approval *nunc pro tunc* of the *pro forma* corporate restructuring serves the public interest. As mentioned earlier, the *pro forma* change was undertaken to streamline and eliminate inefficiencies from the business and administrative operations of SGLC and Startec. The public interest will also be served by expeditious consideration and approval of the

Application. For various important business and financial reasons, Applicants require that the Application be approved as quickly as possible in order to complete the anticipated transfer of control of Startec, which will provide further benefits to Startec. Startec anticipates that this transaction will allow Startec and its purchaser's affiliated telecommunications carriers to realize significant cost savings and operational benefits. Such savings may likely to result from network integration, lower international termination costs as a result of larger traffic volumes, synergies from information systems integration, and other sources. These cost savings and benefits will cause Startec to become a stronger competitor in the marketplace and will allow it to continue to provide high quality and low cost telecommunications services to hundreds of South Carolina residents. Moreover, the transaction will also put Startec in a better position to expand its service offerings, to the ultimate benefit of its customers. Delay in the regulatory approval process will prevent the parties from realizing these economic and operational benefits or delivering expanded customer services as quickly as the parties otherwise would. Accordingly, Applicants request that the Commission consider the Application on an expedited basis.

V. CONCLUSION

For the reasons stated above, Applicants submit that the public interest, convenience, and necessity would be furthered by a grant of this Application. Applicants therefore respectfully request that the Commission consider and approve this Application expeditiously to permit Applicants to consummate the proposed transfer of control as soon as possible.

Respectfully submitted,



John J. Pringle, Jr.  
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catherine.wang@bingham.com  
brett.ferenchak@bingham.com

Counsel for Applicants

Dated: March 29, 2007

## **LIST OF EXHIBITS**

Exhibit A                      *Pro Forma* Corporate Restructuring Structure Charts

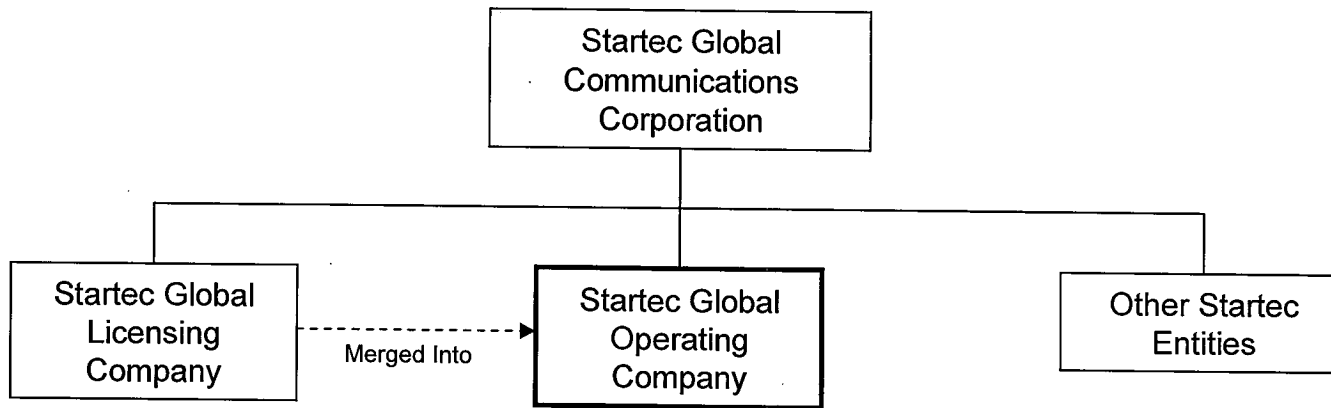
Notice of Filing



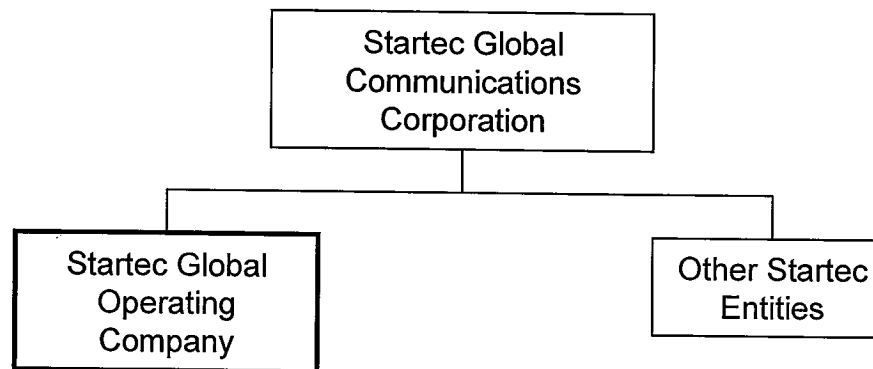
**EXHIBIT A**

*Pro Forma* Corporate Restructuring Structure Charts

## **Pre-Pro Forma Restructuring of Startec**



## **Post-Pro Forma Restructuring of Startec**



PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKETING DEPARTMENT

NOTICE OF FILING

DOCKET NO. 2007-\_\_\_\_-C

Startec Global Communications Corporation ("SGCC"), and Startec Global Operating Company ("Startec") (collectively, "Applicants"), pursuant to S.C. Code Section 58-9-310 and the rules of the South Carolina Public Service Commission ("Commission"), respectfully request Commission approval, *nunc pro tunc*, of a *pro forma* corporate restructuring completed on December 27, 2006 and involving Startec Global Licensing Company ("SGLC"), which the Commission authorized to provide telecommunications service. Startec is a wholly-owned subsidiary of SGCC. SGLC, an entity that was also 100% owned by SGCC and which originally held the Certificate granted by the Commission, was merged with and into Startec, with Startec surviving. As a result of the merger, SGLC ceased to exist and Startec became the operating telecommunications service provider in South Carolina. All the telecommunications assets of SGLC, including its Certificate, were transferred to Startec as a result of the merger. Upon completion of this *pro forma* corporate restructuring, Startec also assumed the customers and operations of SGLC.

A copy of the application is on file in the offices of the Commission, 101 Executive Center Drive, Columbia, South Carolina 29210, the Commission's website at [www.psc.sc.gov](http://www.psc.sc.gov), and is available from John J. Pringle, Esquire, Ellis, Lawhorne & Sims, PA, P.O. Box 2285, Columbia, South Carolina 29202.

A public hearing, if scheduled, will be held in Columbia, South Carolina at the offices of the Commission at the above address, for the purpose of receiving testimony and other evidence from all interested parties regarding this Application. The time and date of the hearing will be furnished to all interested parties at a later date.

Any person who wishes to participate in this matter, as a party of record with the right of cross-examination should file a Petition to Intervene in accordance with the Commission's Rules of Practice and Procedure on or before \_\_\_\_\_, 2007, and indicate the amount of time required for his presentation. Please include an email address for receipt of future Commission correspondence in the Petition to Intervene. *Please refer to Docket No. 2007-\_\_\_\_-C.*

Any person who wishes to be notified of any change in the hearing, but does not wish to present testimony or be a party of record, may do so by notifying the Docketing Department in writing at the address below on or before \_\_\_\_\_, 2007. *Please refer to Docket No. 2007-\_\_\_\_-C.*

**PLEASE TAKE NOTICE:** Any person who wishes to have his or her comments considered as part of the official record of this proceeding **MUST** present such comments, in person, to the Commission during the hearing.

Persons seeking information about the Commission's Procedures should contact the Commission at (803) 896-5100.

Public Service Commission of South Carolina  
Attn: Docketing Department  
Post Office Drawer 11649  
Columbia, South Carolina 29211